

**UNITED STATES DISTRICT COURT**

## DISTRICT OF NEVADA

8 ANGELO FERGUSON, )  
9 Petitioner, ) 2:11-cv-00649-PMP-GWF  
10 vs. )  
11 STATE OF NEVADA, )  
12 Respondent. )  
/  
**ORDER**

14 Petitioner, a Nevada state prisoner, has filed this *pro se* petition for writ of habeas corpus  
15 pursuant to 28 U.S.C. § 2254. He has failed to either pay the filing fee or submit an application to  
16 proceed *informa pauperis*. Moreover, pursuant to the Rules Governing Habeas Cases, Rule 4, the court  
17 has reviewed the petition and finds that it must be denied for failure to state a claim for which relief may  
18 be granted.

19 Petitioner lists under "Ground 1" that his state court conviction is unconstitutional, in violation  
20 of his right to "get a law suit," and under "Ground 2" he lists as facts: "they or [sic] not treating  
21 me with respect I want a law suit on all grounds..." He sets forth no other factual allegations for this  
22 petition. Accordingly, this petition must be denied for failure to state a claim for which relief may be  
23 granted.

24 In order to proceed with an appeal, petitioner must receive a certificate of appealability. 28  
25 U.S.C. § 2253(c)(1); Fed. R.App. P. 22; 9th Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9th  
26 Cir.2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir.2001). Generally, a petitioner

1 must make “a substantial showing of the denial of a constitutional right” to warrant a certificate of  
2 appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). “The  
3 petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the  
4 constitutional claims debatable or wrong.” *Id.* (quoting *Slack*, 529 U.S. at 484). In order to meet this  
5 threshold inquiry, the petitioner has the burden of demonstrating that the issues are debatable among  
6 jurists of reason; that a court could resolve the issues differently; or that the questions are adequate to  
7 deserve encouragement to proceed further. *Id.*

8 Pursuant to the December 1, 2009 amendment to Rule 11 of the Rules Governing Section 2254  
9 and 2255 Cases, district courts are required to rule on the certificate of appealability in the order  
10 disposing of a proceeding adversely to the petitioner or movant, rather than waiting for a notice of  
11 appeal and request for certificate of appealability to be filed. Rule 11(a). This court denies petitioner  
12 a certificate of appealability.

13 **IT IS THEREFORE ORDERED** that this petition for writ of habeas corpus is **DENIED**. No  
14 certificate of appealability shall issue.

15 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** and to close this  
16 case.

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18 DATED: May 6, 2011

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21 PHILIP M. PRO  
United States District Judge

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